

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

LOCAL 513 INTERNATIONAL UNION)
OF OPERATING ENGINEERS,)
AFL-CIO, *et al.*,)
)
Plaintiffs,)
)
vs.)
)
MARK'S SERVICES, L.L.C.,)
)
Defendant.)

Case No. 4:17CV01082 AGF

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiffs' motion for default judgment (ECF. No. 48) against Defendant Mark's Services, L.L.C. Plaintiffs are the union and trustees of various employee benefit plans. Plaintiffs filed this action to recover delinquent contributions owed to them under the Employee Retirement Income Security Act, 29 U.S.C. §§ 185 & 1132.

Clerk's Entry of Default was entered against Defendant July 5, 2018. In their motion for default judgment, Plaintiffs seek judgment against Defendant in the amounts of \$11,200.18 for delinquent contributions, \$2,240.04 for liquidated damages and pre-judgment interest, \$31.14 for underpaid variances, and \$4,490.45 for attorneys' fees, and \$450 for court costs. Plaintiffs have provided affidavits and exhibits supporting these amounts. (ECF. No. 49)

"Where default has been entered, the allegations of the complaint, except as to the amount of damages are taken as true." *Carpenters' Dist. Council of Greater St. Louis and*

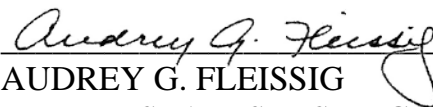
Vicinity v. Hard Rock Foundations, LLC, No. 4:13CV01549 AGF, 2013 WL 6037097, at *2 (E.D. Mo. Nov. 14, 2013) (citation omitted). “In determining the amount of damages for a default judgment in an ERISA case brought by a plan against an employer, the court may rely on detailed affidavits or documentary evidence to determine the appropriate sum for the default judgment.” *Painters Dist. Council 2 v. Grau Contracting, Inc.*, No. 4:10CV02339 AGF, 2012 WL 2848708, at *1 (E.D. Mo. July 11, 2012) (internal quotation omitted). A plaintiff is entitled to recover all of the principal contributions owed pursuant to the payroll examination, plus liquidated damages totaling twenty percent of the delinquency, interest, attorneys’ fees, and costs. *See* 29 U.S.C. § 1132(g)(2)(E). Damages must be proven by a preponderance of the evidence. *See Iron Workers St. Louis Dist. v. Arrow Fence, Inc.*, No. 4:11CV02019 AGF, 2013 WL 991658, at *2 (E.D. Mo. Mar. 13, 2013).

Upon review of the record,

IT IS HEREBY ORDERED that Plaintiffs’ motion for default judgment is **GRANTED**. (ECF No. 48)

IT IS FURTHER ORDERED that Plaintiff’s pending motion to compel discovery is **DENIED as moot**. (ECF No. 39)

An appropriate Judgment showing Defendant’s full liability of \$18,411.81 shall accompany this Memorandum and Order.


AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 20th day of July, 2018.